

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

FILED

MAR - 2 2005

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

V.

**NFI MANAGEMENT, INC., D/B/A HOME
MANAGEMENT, INC., ALSO D/B/A
DOVE TREE APARTMENTS.**

Defendant.

§

Civil Action No. SA04CA00656

FINAL JUDGMENT ORDER ENTERING CONSENT DECREE

On this day came on to be heard the parties' Joint Motion to Enter Consent Decree. After reviewing the Consent Decree, the Court finds that all issues in the Complaint have been disposed of, that the parties are in agreement, and that the Consent Decree should be entered.

It is therefore ordered that the Consent Decree is hereby entered. The Court shall retain jurisdiction to enforce the terms and conditions as set forth in the Consent Decree, which is attached to the parties' Joint Motion to Enter Consent Decree.

Signed this 2 day of March, 2005.

Schuld. F.

HONORABLE ORLANDO GARCIA
UNITED STATES DISTRICT JUDGE

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**EQUAL EMPLOYMENT OPPORTUNITY
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**NFI MANAGEMENT, INC., D/B/A HOME
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DOVE TREE APARTMENTS,**

Defendant.

[illegible]

Civil Action No. SA04CA00656

CONSENT DECREE

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity (“EEOC”), and Defendant NFI Management, Inc., d/b/a Home Management, Inc., also d/b/a Dove Tree Apartments. This Consent Decree resolves the allegations raised by the EEOC in the above-referenced Civil Action No. SA04CA00656. The EEOC initiated this lawsuit under Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 (“ADA”), to correct alleged unlawful employment practices on the basis of disability and to provide appropriate relief to Defendant’s former employee, Felix Castro, who was allegedly adversely affected by such practices. The EEOC alleged that Defendant, NFI Management, Inc., d/b/a Home Management, Inc., also d/b/a Dove Tree Apartments, (hereinafter collectively referred to as “NFI Management, Inc.”), failed to provide Felix Castro with a reasonable accommodation; it terminated him from his position of maintenance technician because of his disability; and it failed to return Mr. Castro to his position or a comparable position and/or rehire Mr. Castro because of his disability.

The EEOC and NFI Management, Inc. wish to settle this Action, without the risks,

uncertainties and expenses of continued litigation, under the terms in the Decree.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of this action and the parties, venue is proper, and all administrative prerequisites to the filing of this action have been met. The complaint states claims, which, if proved, would authorize this Court to grant relief against NFI Management, Inc., pursuant to the ADA.

2. This Decree resolves all issues raised in EEOC's complaint in this case. EEOC waives further litigation of all issues raised in the above referenced complaint. EEOC expressly reserves its right, however, to process and litigate any other charges which may now be pending or may in the future be filed against NFI Management, Inc.

SCOPE OF CONSENT DECREE

3. The duration of this Decree shall be two (2) years from the date of its filing with the Court. This Court shall retain jurisdiction of this action during the period of this Decree and may enter further orders or modifications as may be appropriate. Should any disputes under this Decree remain unresolved after this two-year period, the term of the Decree shall be automatically extended, and the Court will retain jurisdiction of this matter to enforce the Consent Decree, until such time as all disputes have been resolved. The terms of the Consent Decree shall apply only to NFI Management, Inc.'s operations in the State of Texas.

INJUNCTIVE PROVISIONS

4. During the term of this Consent Decree, NFI Management, Inc., its officers, agents, representatives, successors and other persons in active concert or participation with it, or any of them, are enjoined from discriminating against any qualified employees, because of their disabilities, by failing to provide reasonable accommodations; by terminating qualified individuals because of

their disability; by failing to rehire qualified employees because of their disabilities; and by engaging in any other employment practice which unlawfully discriminates on the basis of disability.

MONETARY RELIEF

5. NFI Management, Inc., in settlement of this dispute, shall pay to Felix Castro, the amount of \$22,500.00 (twenty-two thousand and five hundred dollars and no cents). Payment shall be made by NFI Management, Inc. or its agent within eleven (11) days of the date this Decree is entered by the Court. Payment shall be by check made payable to Felix Castro, 8727 Huebner Road, Apt. 715, San Antonio, Texas 78240. A copy of all the settlement checks, and any accompanying transmittal documents shall be forwarded by fax to (210) 281-7669, to the attention of Robert B. Harwin, Regional Attorney, San Antonio District Office, United States Equal Employment Opportunity Commission, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

TRAINING

6. Within one hundred and twenty (120) days from the entry of this Consent Decree, NFI Management, Inc. will provide four (3) hours of training to its managerial employees at all of NFI Management, Inc.'s operations in the State of Texas, according to the following terms on the subject of the employment provisions under the ADA policy, regarding the Americans With Disabilities Act, including the Act's confidentiality provisions.

7. Within eleven (11) days after the completion of the training session, NFI Management, Inc. shall certify to EEOC, in writing, that the required training has taken place and that required personnel attended. Such certification shall include:

- A. The date, location and duration of the training; and
- B. A copy of the registry of attendance which shall include the name and position or title of each person in attendance.

POSTING REQUIREMENT

8. Within eleven (11) business days after entry of this Consent Decree, NFI Management, Inc. shall post copies of the Notice attached as **Exhibit "A"** to this Decree at all of its operations in the State of Texas in conspicuous locations easily accessible to and commonly frequented by employees. The Notice shall remain posted for the duration of this Decree. NFI Management, Inc. shall ensure that the Notice is not altered, defaced or covered by any other material. NFI Management, Inc. shall certify to the EEOC in writing within eleven (11) business days after entry of the Decree that the Notice has been properly posted.

MISCELLANEOUS PROVISIONS

9. NFI Management, Inc. shall bear the costs it incurs in administering and implementing the provisions of this Decree.

10. Except as provided herein, the parties to this Decree shall bear their own costs and attorney's fees.

11. The terms of this Decree are and shall be binding upon the present and future officers of NFI Management, Inc. in their representative capacity and upon the successors and assigns of NFI Management, Inc.

12. When this Consent Decree requires the submission by NFI Management, Inc. of documents or other materials to EEOC, such documents or other materials shall be mailed to Robert B. Harwin, Regional Attorney, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229. The Clerk shall furnish a copy hereof to each attorney of record.

SO ORDERED AND ENTERED this _____ day of _____, 2005.

HONORABLE ORLANDO GARCIA
UNITED STATES DISTRICT JUDGE

Respectfully Submitted,

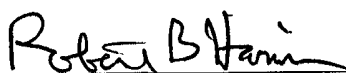
ERIC S. DREIBAND
General Counsel

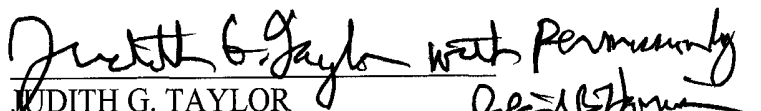
JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

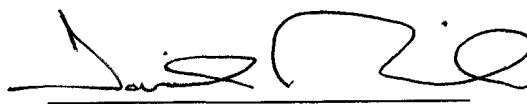
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COMMISSION
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Telecopier: (210) 281-7669

ATTORNEYS FOR DEFENDANT

ATTORNEYS FOR PLAINTIFF

EXHIBIT A

NOTICE

1. This NOTICE to all employees of NFI Management, Inc., d/b/a Home Management, Inc., also d/b/a Dove Tree Apartments (NFI Management, Inc.) is being posted as part of an agreement between NFI Management, Inc. and the U.S. Equal Employment Opportunity Commission.
2. The Americans with Disabilities Act (ADA) prohibits a covered employer from discriminating against a qualified individual with a disability because of his or her disability in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment, and from discriminating against a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association. It is unlawful for an employer to deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant.
3. NFI Management, Inc. strongly supports and will comply with such Federal law in all aspects and it will not take any action against employees because they have exercised their rights under the law by filing charges with the U.S. Equal Employment Opportunity Commission.
4. If you believe you are being discriminated against in any term or condition of your employment because of your disability, you are encouraged to seek assistance from supervisory personnel, or from the U.S. Equal Employment Opportunity Commission, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229-3555, (210) 281-7600 or 1-800-669-4000.
5. No retaliatory action may be taken against you for seeking assistance, filing a charge, or communicating with the U.S. Equal Employment Opportunity Commission.
6. This NOTICE will remain posted until 2/28/07, by agreement of the U.S. Equal Employment Opportunity Commission and NFI Management, Inc.